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ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR 2924-216 5867 09/12/2003 10/660,785 Joern Moeckel EXAMINER 01/05/2006 6449 7590 ROTHWELL, FIGG, ERNST & MANBECK, P.C. SILVERMAN, ERIC E 1425 K STREET, N.W. ART UNIT PAPER NUMBER SUITE 800 WASHINGTON, DC 20005 1615

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 8-30-2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extension of time may be available under the provision of 30° FR 11-30°, in no event nower, may a reply be timely filed.  If NO period for reply is appoilided above, the maximum statutory parted will apply and will expire SIX (8) MONTHS from the maining date of this communication.  Failur to reply which the sort oxenedoe prind for reply will, by statusc, use the application become ABANDED C3 u.S.C. § 133.  Any reply received by the Office liter than three months after the mailing date of this communication, even if timely filed, may reduce any searche present them adjustment. See 37° GFR 1-764(6).  Status  1)		Application No.	Applicant(s)	
Eric E. Silverman, PhD   1615	Office Action Summary	10/660,785	MOECKEL ET AL.	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 8:30:2 MONTH(S) OR THIRTY (30) DAYS, WHIGHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Estimators of time may be availated under the provisions of SYCR1.13(9). In or event, however, may repty be almost feet for the state of the communication of the provision of the prov		Examiner	Art Unit	
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Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  A) Interview Summary (PTO-413) Paper No(s)/Mail Date.  Notice of Informal Patent Application (PTO-152)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	Attachment(s)			
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  5) Notice of Informal Patent Application (PTO-152)	1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)			
	3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal P		

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#### **DETAILED ACTION**

Applicant is notified that the Examiner assigned to this case has changed. The examiner currently assigned to this case is **Eric Silverman**, **PhD**, whose contact information appears at the end of this action. Applicant is further notified that the Art Unit to which this case is assigned has changed. This case is currently assigned to **Art Unit 1615**.

Receipt of Applicant's Amendment, Arguments, and Remarks filed 8/30/2005 is acknowledged. Claims 1 – 20 have been cancelled. Claims 21 – 41 are pending in this action.

## Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21 – 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **This is a new matter rejection.** 

Claims 21 and 41 recite, in part "a copolymer of acrylic and methacrylic esters, a copolymer of ethyl acrylate and methyl methacrylate". The disclosure as originally filed

does not have support for this limitation. Specifically, the specification on the last paragraph of page 6 recites "copolymers of acrylate and methacrylic esters *having a low content of quatrinary ammonium groups*" and "copolymers of ethyl acrylate and methyl methyacrylate *with neutral character*" (emphases added). The claims recite genuses, where the original disclosure supports only particular sub-genuses of what is recited in the claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 36, 38 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Instant claims depend from claim 21, but recite a coating that comprises elements not listed in claim 21. Does applicant intend to mean that the coating claimed in instant claims *further* comprises one of these elements? Also, the recitation of polymethacrylate derivatives is indefinite, since a person of ordinary skill in the art would not know what is encompassed by this term.

### Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21-41 **remain** rejected under 35 U.S.C. 1O3ta) as being unpatentable over Canadian Patent 2,149,052 in view of EP 0 421 921 A1 and Canadian Pat 1,305,166 for reasons of record.

### Response to Arguments

Applicants arguments, and the evidence presented by Applicant, have been fully considered but are not persuasive. Applicant argues that the Eudragit polymers of the EP document not the same as those of instant invention. However, instant claim 21 includes ellulose acetate phthalate as one of the possible polymers of the invention, and the EP document teaches the use cellulose acetate phthalate (page 4, line 40 - 43, particularly line 40).

#### Conclusion

No claims are allowed. No claims are free of the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Eric E. Silverman, PhD whose telephone number is 571

272 5549. The examiner can normally be reached on Monday to Friday 7:30 am to 4:00

pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thurman K. Page can be reached on 571 272 0602. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Eric E. Silverman, PhD

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THURMAN K. PAGE
SUPERVISORY BATENT EXAMINER
TECHNOLOGY CENTER 1600

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